

**Internal Revenue Service**

Department of the Treasury  
Washington, DC 20224

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Person To Contact:  
\_\_\_\_\_, ID No. \_\_\_\_\_  
Telephone Number: \_\_\_\_\_

Refer Reply To:  
CC:ITA:7  
PLR-126123-14  
Date:  
November 03, 2014

Re: Request to revoke the election not to deduct the additional first year depreciation

Taxpayer =

A =  
B =

Dear \_\_\_\_\_:

This letter responds to a letter dated May 6, 2014, and supplemental correspondence, submitted by you, requesting the consent of the Commissioner of Internal Revenue to revoke Taxpayer's election not to deduct the additional first year depreciation made on its B federal tax return for the taxable year ended A (the "B taxable year").

**FACTS**

Taxpayer represents that the facts are as follows:

Taxpayer, a calendar year taxpayer, owns and operates a dairy farm. For the federal tax return timely filed for the B taxable year, Taxpayer made an election not to deduct the additional first year depreciation under section 168(k) of the Internal Revenue Code (the "Code") for all classes of qualified property placed in service during that taxable year. Taxpayer is a cash basis taxpayer.

Taxpayer hired a tax preparer to prepare its B federal tax return for the taxable year ended A. During the preparation of this tax return, the tax preparer discussed with Taxpayer whether to claim the additional first year depreciation deduction for qualified property placed in service during B in light of the losses on the farming business. As a

result of this discussion, Taxpayer advised the tax preparer to not deduct the additional first year depreciation for all classes of qualified property placed in service during the B taxable year. Subsequent to filing Taxpayer's B federal tax return, it was discovered that such tax return was prepared incorrectly because certain information received from a bank, specifically the amount of interest paid by Taxpayer, was overstated by the bank. Thus, Taxpayer's taxable income for the B taxable year was under-reported. If not for this error by the bank, Taxpayer's tax preparer would have advised Taxpayer to deduct the additional first year depreciation for all classes of qualified property placed in service during the B taxable year.

#### RULING REQUESTED

Consequently, Taxpayer requests to revoke the election not to deduct any additional first year depreciation made on its B federal tax return for the taxable year ended A.

#### LAW AND ANALYSIS

Section 168(k)(1) provides a 50-percent additional first year depreciation deduction for the taxable year in which qualified property is placed in service by a taxpayer.

Section 168(k)(2)(D)(iii) provides that a taxpayer may elect not to deduct the 50-percent additional first year depreciation for any class of property placed in service during the taxable year. The term "class of property" is defined in § 1.168(k)-1(e)(2) of the Income Tax Regulations.

Section 1.168(k)-1(e)(7)(i) provides that an election not to deduct the additional first year depreciation for a class of property that is qualified property placed in service during the taxable year is revocable only with the prior written consent of the Commissioner of Internal Revenue. To seek the Commissioner's consent, the taxpayer must submit a request for a letter ruling.

#### CONCLUSIONS

Based solely on the facts and representations submitted, we conclude that a revocation of Taxpayer's election not to deduct any additional first year depreciation under § 168(k)(1) for all classes of qualified property placed in service by Taxpayer in the taxable year ended A, is permitted under § 1.168(k)-1(e)(7)(i). Accordingly, Taxpayer is granted 60 calendar days from the date of this letter to revoke its election not to deduct the additional first year depreciation for all classes of qualified property placed in service by Taxpayer in the taxable year ended on A. The revocation must be made in a written statement filed with Taxpayer's amended federal tax return for the

taxable year ended on A. In addition, a copy of this letter must be attached to such amended return. A copy is enclosed for that purpose.

Except as specifically ruled upon above, no opinion is expressed or implied concerning the tax consequences of the facts described above under any other provisions of the Code (including other subsections of section 168). Specifically, no opinion is expressed or implied on whether any item of depreciable property placed in service by Taxpayer in the taxable year ended A, is eligible for the additional first year depreciation deduction, under § 168(k).

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

In accordance with the power of attorney, we are sending a copy of this letter to Taxpayer's authorized representative. We also are sending a copy of this letter to the appropriate operating division director.

Sincerely,

Kathleen Reed

Kathleen Reed  
Branch Chief, Branch 7  
Office of Associate Chief Counsel  
(Income Tax and Accounting)

Enclosures (2)

6110 copy

copy for amended return